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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,559	10/06/2003	Jeffrey G. Gibson	DUR-118	4153
27014 75	90 08/28/2006		EXAM	INER
JOHN R. BENEFIEL 280 DAINES ST.			WINDLEY III, WILLIAM R	
#100 B	1.		ART UNIT	PAPER NUMBER
BIRMINGHAM, MI 48009			3682	

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
Office Asticus Communication	10/680,559	GIBSON, JEFFREY G.			
Office Action Summary	Examiner	Art Unit			
	William Windley III	3682			
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed on 06 Oc	ctober 2003.				
	action is non-final.				
,					
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
 4) Claim(s) 1-8 is/are pending in the application. 4a) Of the above claim(s) is/are withdraw 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-8 are subject to restriction and/or election 					
Application Papers					
9) The specification is objected to by the Examine	r .				
10) The drawing(s) filed on is/are: a) acce	epted or b) objected to by the I	Examiner.			
Applicant may not request that any objection to the	drawing(s) be held in abeyance. See	∍ 37 CFR 1.85(a).			
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).					
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.					
Priority under 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: Certified copies of the priority documents have been received. Certified copies of the priority documents have been received in Application No Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 					
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal F				
Paper No(s)/Mail Date	6) 🔲 Other:				

Application/Control Number: 10/680,559 Page 2

Art Unit: 3682

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-5, drawn to an apparatus of a foot pedal, classified in class 74, subclass 560.
- II. Claims 6-8, drawn to a method of making a foot pedal, classified in class29, subclass 527.4.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case as claimed the product can be made by another and materially different process without overmolding the plastic component.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.
- 4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

Art Unit: 3682

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Windley III whose telephone number is 571-272-6460. The examiner can normally be reached on 8:30 AM to 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/680,559 Page 4

Art Unit: 3682

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William Windley III 8/22/2006

RICHARD RIDLEY SUPERVISORY PATENT EXAMINER